UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,367	08/15/2001	Tomoyuki Yorinaga	067183-0192	8853

44987	7590	10/23/2006	

HARRITY SNYDER, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX, VA 22030

EXAMINER
MERED, HABTE

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	09/929,367	YORINAGA ET AL.
	Examiner	Art Unit	
	Habte Mered	2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>10 October 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
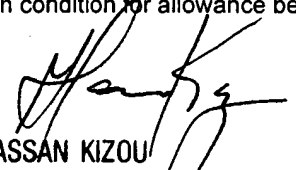
        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

HASSAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: The amendment after final rejection filed on 10/10/2006 has been fully considered, however, Applicant's arguments are not still persuasive. In the Remarks, from pages 2-5, Applicant argues that the primary reference Hoogenboom fails to teach the claimed limitation in independent claim 1 that partially recites each of the output side circuit interfaces feeds back a cell number accumulated for each virtual channel to a corresponding one of the input side circuit interfaces. A careful review of the last Office Action reveals that the primary reference was introduced to teach the structure of independent claim 1. As indicated in the last Office Action, Hoogenboom teaches the structure claimed in claim 1 which is a switch with one or more input side circuit interfaces and one or more output side circuit interfaces and a core switch for outputting cells inputted thereto from the input side circuit interface to the output side circuit interface or interfaces. Further more Hoogenboom teaches in Paragraphs 26, 28, and 34 and in Figures 3 and 5 that his switch has an accumulator for each virtual connection keeping track of of the total cell count for the virtual connection. Hoogenboom however just keeps a total count of the cells and when a threshold value is exceeded it sends a backpressure signal. Hoogenboom keeps track of the cell count and uses it for rate limitation but fails to send the actual cell count for each virtual connection from the output side to the input side for the purpose of rate limitation. Zhang on the other hand remedies Hoogenboom's deficiencies by teaching an arrangement where the output sends a total cell count of each virtual connection to the corresponding input side for congestion monitoring (See Figure 1, Tables 1-3, Pg. 1296, column 2, lines 1-10, and Pg. 1298, column 2, lines 1-5). Applicant in the Remarks on page 7 argues that Zhang in no way discloses or suggests that one of the switches in the group of switches includes one or more input side circuits and one or more output side circuits. Examiner respectfully disagrees with Applicant's conclusion. Input and output circuits/ports are inherent to switches. A switch without an input circuit/port and an output circuit/port is not a functional entity in the art to be considered a switch. Further, Applicant argues on page 8, lines 10-13, that Zhang does not disclose RM cells include a cell number accumulated for each virtual channel. Examiner respectfully disagrees. Zhang uses the CU field of the RM cell to keep track of the cell number accumulated for each virtual channel. As detailed in the last Office Action the Ucnt counter keeps track of the total cell number of each virtual channel and the value of the Ucnt counter is populated into the CU field of the RM cell. Finally Aplicant argues the pseudo code in line 3 Table 3 of Zhang , Ucnt = Ucnt + 1 is simply a counter update procedure and does not relate to the contents of an RM cell, Examiner agrees with the Applicant that as far as Ucnt= Ucnt +1 is considered it is a counter update procedure and even though Applicant fails to disclose what is being counted it is clear that it is counting the arrival of a data cell based on the pseudo code lines 0-2 in Table 3. Further in line 6 of the pseudo code of Table 3 Zhang clearly shows the counter value Ucnt being used to populate the CU field of the RM cell.